

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the Matter of

Closed Captioning and Video Description of  
Video Programming

Implementation of Section 305 of the  
Telecommunications Act of 1996

Video Programming Accessibility

MM Docket No. 95-176

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**OPPOSITION TO  
PETITION FOR RECONSIDERATION**

Outdoor Life Network, L.L.C., Speedvision Network, L.L.C. and The Golf Channel ("Networks") submit this Opposition to the Petition For Reconsideration filed by Self Help for Hard of Hearing People, Inc. ("SHHH") in the captioned proceeding.

The Networks are three recently-launched, basic cable programming networks that are struggling to achieve commercial viability in the highly competitive marketplace of multichannel video programming. The Networks have a strong interest in this proceeding, and the new network exemption in particular, as they will be substantially impacted by the captioning rules.

In its petition, SHHH asks the Commission to modify its closed captioning rules in two significant respects. First, it asks the Commission to advance the date of the first benchmark period by one full year—from the first quarter of 2000 to the first quarter of 1999. Second, it asks the Commission to limit its exemption for "new networks," which currently provides that a network is exempt from captioning for four years from launch.<sup>1</sup> For the reasons provided below, the Networks urge the Commission to deny both of SHHH's requests.

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<sup>1</sup> Specifically, SHHH asks the Commission to restructure this rule so that if a new network reaches \$75 million in annual revenues prior to the expiration of its exemption, the network would be required to commence closed captioning one year later.

**I. THE NEW NETWORK EXEMPTION, WHICH, AS CURRENTLY STRUCTURED, AFFORDS MOST NEW NETWORKS INSUFFICIENT RELIEF, AND PROVIDES MANY RECENTLY-LAUNCHED NETWORKS NO RELIEF WHATSOEVER, SHOULD NOT BE FURTHER LIMITED**

As the Networks explained in their Petition For Partial Reconsideration ("Petition") filed October 16, 1997, the new network exemption, even as currently structured, provides insufficient relief to new networks generally and no relief at all to numerous recently-launched programming distributors, such as the Networks. As a result, many recently-launched or soon-to-be-launched networks—those who the Commission seemingly (and appropriately) intended to protect—will suffer substantial economic hardship under the pending closed captioning rules. Given this situation, it would be unwise for the Commission to further limit the new network exemption as SHHH asks. In short, SHHH's proposed rule change would move the new network exemption in the *wrong direction*, by providing less relief to some new networks, and therefore should be rejected.

In their Petition, the Networks offered two modest adjustments to the new network exemption that would allow it to provide real, rather than illusory, relief from the economic burdens of captioning for new networks generally and for recently-launched networks in particular.<sup>2</sup> The Networks submit that the Commission should give serious consideration to a modest *expansion* of the exemption, if anything, and should reject efforts to further constrict a rule that already fails to provide an adequate degree of much-needed relief.

**II. THE COMMISSION SHOULD NOT ADVANCE THE INITIAL BENCHMARK FOR CAPTIONING BY ONE FULL YEAR, AS PROPOSED BY SHHH**

In establishing the first benchmark in the first quarter of 2000, the Commission correctly concluded that "some time is needed to permit video programming distributors sufficient time

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<sup>2</sup> Specifically, the Networks asked the Commission (1) to extend the exemption period to five years from launch, and (2) to provide that, once a network's new network exemption expires, it will be afforded the full eight-year transition period for compliance with captioning requirements applicable to new programming.

to determine the availability of programming with closed captioning and to make whatever arrangements are necessary to ensure that they are able to provide programming with closed captioning to viewers in compliance with our requirements."<sup>3</sup> SHHH now asks the Commission to advance the initial benchmark one full year, to the first quarter of 1999. It claims that video programmers will have a two-year "free ride" to avoid captioning responsibilities. This view is incorrect.

The captioning of hundreds of hours of programming each quarter cannot be achieved instantaneously, like throwing a switch. Rather, programmers will have to begin their compliance efforts long before the first benchmark period begins. Thus, even before the first quarter of 2000, programmers will be required to purchase captioning equipment, to make contractual commitments for acquisition of captioned programming, and to begin incurring all of the other costs of complying with the captioning requirements. This period will hardly be a "free ride." Rather, it is needed for the video programming industry to prepare in a smooth and orderly way for compliance with the captioning rules.

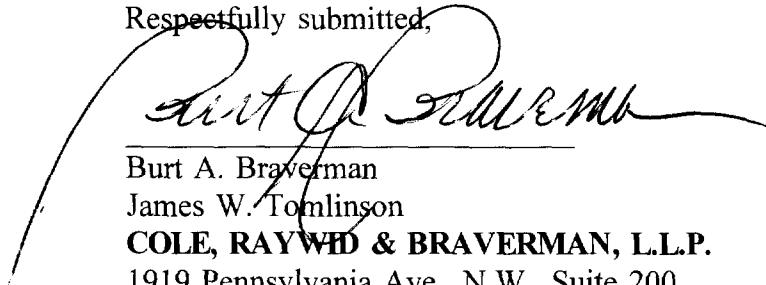
By establishing this two-year period, the Commission struck a reasonable balance between the goal of improved access to video programming for persons with hearing disabilities and the reality that captioning will impose a very substantial economic burden on the video programming industry. SHHH's proposal to cut this period *in half* would radically upset this balance and should be rejected.

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<sup>3</sup> *Implementation of Section 305 of the Telecommunications Act of 1996—Video Programming Accessibility*, Report and Order (rel. Aug. 22, 1997) at ¶ 44.

Accordingly, the Networks respectfully submit that the Commission should reject the SHHH Petition For Reconsideration in full.

Respectfully submitted,

A large, stylized handwritten signature in black ink, appearing to read "Burt A. Braverman", is written over a horizontal line.

Burt A. Braverman

James W. Tomlinson

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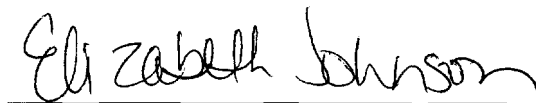
**The Golf Channel**

November 20, 1997

**CERTIFICATE OF SERVICE**

I, Elizabeth Johnson, hereby certify that on this 20th day of November 1997,  
copies of the foregoing was mailed, first class, postage prepaid, to the following:

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Elizabeth Johnson